

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD TARN,

Plaintiff,

v.

ICE, et al.,

Defendants.

CIVIL ACTION NO. 3:13-CV-1247

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 9th day of January, 2014, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Edward Tarn, a prisoner confined at the Pike County Correctional Facility, Lords Valley, Pennsylvania, filed the instant Bivens civil rights action pursuant to 28 U.S.C. §1331 on May 7, 2013;

(2) The action was assigned to Magistrate Judge Thomas M. Blewitt for Report and Recommendation;

(3) On December 4, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 25) wherein he recommended that Plaintiff's case be dismissed without prejudice, in accordance with Fed. R. Civ. P. 41(b) and Poulis v. State Farm Fire and Cas. Co., 747 F. 2d 863, 868 (3d Cir. 1984), on the basis of Plaintiff's failure to comply with a court Order, and failure to prosecute his action by filing a Second Amended Complaint;

(4) Specifically, the Magistrate Judge discusses the history of this case wherein Plaintiff was allowed to file a Second Amended Complaint and advising Plaintiff that failure to file a timely Second Amended Complaint could result in dismissal of this action (Doc. 20);

(5) Plaintiff has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. §636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987);

(7) We have considered the Magistrate Judge's Report and we concur with his recommendation;

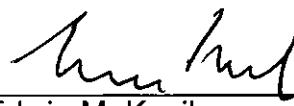
ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated December 4, 2013 (Doc. 25) is **ADOPTED**;

(2) Plaintiff's Motion to Proceed *in forma pauperis* (Doc. 2) is **GRANTED**;

(3) The above-captioned action is **DISMISSED** without prejudice; and

(4) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.



Edwin M. Kosik
United States District Judge

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PER 
DEPUTY CLERK